

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

MAR 12 2014

OFFICE OF
MANAGING DIRECTOR

Fabian O. Balaguer
Chief Financial Officer
TeleHispanic Services, LLC
16300 NE 19th Ave., Suite A
North Miami Beach, FL 33162

Licensee/Applicant: **TeleHispanic Services, LLC**
Waiver Request: Late Payment Penalty; 47 U.S.C. §
159(c)(1); 47 C.F.R. §§ 1.1157(c)(1), 1.1164(c) &
(e), 1.1910
Disposition: Dismissed
Station: N/A
Fee: Fiscal Year (FY) 2012 and FY
2013 Regulatory Fees and Late Fees
Date Request Filed: May 24, 2013
FY 2012 Regulatory Fees: Paid
FY 2012 Regulatory Late Fees: Paid
FY 2013 Regulatory Fees: Not Paid
Control No.: RROG-12-00015209
Amount Due: **See Fee Filer**

Dear Mr. Balaguer:

This responds to Licensee's *Request*¹ for waiver of the penalties for late payment of Fiscal Year (FY) 2012 regulatory fees. Before addressing Licensee's *Request*, we note that our records show Licensee is delinquent because it failed to pay the required FY 2013² regulatory fees. Under our rules at 47 C.F.R. §§ 1.1164(e)³ and 1.1910, we dismiss the *Request* and demand immediate payment, and under 31 U.S.C. § 3717 and 47 C.F.R. § 1.1940, we continue to assess interest, penalties, and charges of collection. Furthermore, until Licensee makes full payment of the fee, late payment penalty,⁴ and charges of collection, the Commission will withhold action on and thereafter dismiss any pending application.⁵

¹ Letter from Fabian Q. Balaguer, CFO, TeleHispanic Services, LLC, 16300 NE 19th Ave., North Miami Beach, FL 33162 to FCC, To Whom It May Concern (May 24, 2013)(*Request*).

² See FY 2013 Regulatory Fee Due No Later Than September 20, 2013, 11:59 PM Eastern Time (ET), *Public Notice*, DA 13-1796 (Sep. 4, 2013).

³ 47 C.F.R. §§ 1.1164(e) ("Any ~~pending~~ or subsequently filed application submitted by a party will be dismissed if that party is determined to be delinquent in paying a standard regulatory fee The application may be resubmitted only if accompanied by the required regulatory fee and by any assessed penalty payment."), 1.1910.

⁴ 47 U.S.C. § 159(c).

⁵ 47 C.F.R. § 1.1910(a)(2) & (3) ("Action will be withheld on applications, including on a petition for reconsideration or any application for review of a fee determination, or requests for authorization by any entity found to be delinquent in its debt to the Commission ... If a delinquency has not been paid or the debtor has not made other satisfactory arrangements within 30 days of the date of the notice provided pursuant to paragraph (b)(2) of this section, the application or request for authorization will be dismissed.").

Our dismissal ends the matter; however, as a courtesy, we explain that when we evaluate a *Request* such this, we consider whether the Licensee established the existence of bank error or presented legal grounds or clear mitigating circumstances to waive collection of the penalty. Licensee did not.

Under 47 U.S.C. § 159 and the Commission's implementing rules, we are required to "assess and collect regulatory fees" to recover the costs of the Commission's regulatory activities,⁶ and when the required payment is received late or it is incomplete, to assess a penalty equal to "25 percent of the amount of the fee which was not paid in a timely manner."⁷ Specifically, "[a]ny late payment or insufficient payment of a regulatory fee, not excused by bank error, shall subject the regulatee to a 25 percent penalty of the amount of the fee ... which was not paid in a timely manner."⁸ Since 2009, the Commission issued numerous orders and public notices explaining that it would no longer mail hardcopy invoices, and that licensees should check the Commission's website for the fee due and payment instructions.⁹

The penalty required by 47 U.S.C. § 159(c)(1) and charges required by 31 U.S.C. § 3717 are not limited to situations where the failure to pay was knowing or willful. If the penalty it is to be waived, it is "only in the most extraordinary circumstances,"¹⁰ which Licensee did not establish.

Refer to the Commission's fee filer website to determine a payoff, and thereafter make full payment without delay. Because Licensee is delinquent in paying a non-tax debt, under 47 C.F.R. § 1.1910, Licensee is subject to the Commission's red-light rule, and the Commission will withhold action on any application filed or pending and dismiss. *See* 47 C.F.R. §§ 1.1108, 1.1109, 1.1116, and 1.1118. Any Commission action taken prior to the payment of delinquent non-tax debt owed to the Commission is contingent and subject to rescission. Failure to make payment on any delinquent debt is subject to collection of the debt, including interest thereon, any associated penalties, and the full cost of collection to the Federal government pursuant to the provisions of the Debt Collection Improvement Act, 31 U.S.C. § 3717. Moreover, the Commission may collect amounts due by administrative offset.¹¹

Interest and penalties continue to accrue from the date of delinquency, and under the law,¹² we will apply debt collection procedures.¹³ Moreover, under 31 U.S.C. § 3711(g), without further notice, and usually within 180 days or less of delinquency, we will transfer the delinquent debt to Treasury, which will initiate collection action through private collection activities and

⁶ 47 U.S.C. § 159(a)(1); 47 C.F.R. § 1.1151.

⁷ 47 U.S.C. § 159(c)(1); 47 C.F.R. § 1.1164.

⁸ 47 C.F.R. § 1.1164.

⁹ *See Assessment and Collection of Regulatory Fees for Fiscal Year 2009, Notice of Proposed Rulemaking and Order*, 24 FCC Rcd 5966, 5972, ¶ 16 (2009); *Assessment and Collection of Regulatory Fees for Fiscal Year 2009, Report and Order*, 24 FCC Rcd 10301, 10307-09, ¶¶ 18-27 (2009); *Payment Methods and Procedures for Fiscal Year 2009 Regulatory Fees, Public Notice*, 24 FCC Rcd 11513, 11514 (2009); *Assessment and Collection of Regulatory Fees for Fiscal Year 2010, Report and Order*, 25 FCC Rcd 9278, 9291, ¶ 37 (2010).

¹⁰ *McLeodUSA Telecommunications Services, Inc., Memorandum Opinion and Order*, 19 FCC Rcd 6587, 6589 (2004) (denying the request for waiver of 25 percent penalty).

¹¹ 47 C.F.R. § 1.1912.

¹² *See* 47 C.F.R. § 1.1901, *et seq.*

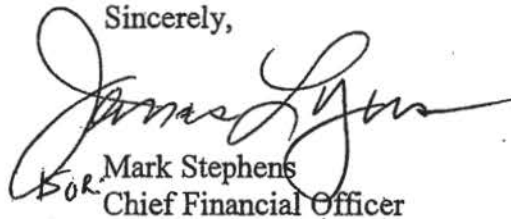
¹³ *See* 31 C.F.R. § 3717.

assess additional charges. In addition, we may refer the debt to the Department of Justice, which may result in litigation and additional costs.

Moreover, under 31 U.S.C. § 3716, 31 C.F.R. § 285.5, and 47 C.F.R. § 1.1912, some or all of the debt may be collected by non-centralized or centralized administrative offset. Also, under 31 U.S.C. § 3711(e), this debt and Licensee's payment history will be reported to credit reporting information bureaus. Because we have furnished notice here, Licensee may not receive another notification of this process. Finally, Licensee will be red-lighted¹⁴ until it pays the debt or makes other satisfactory arrangements.¹⁵

If you have any questions concerning this letter, please contact the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Stephens", is written over the typed name and title.

Mark Stephens
Chief Financial Officer

¹⁴ See 47 C.F.R. § 1.1910(b)(2) ("Action will be withheld on applications, including on a petition for reconsideration or any application for review of a fee determination, or request for authorization by any entity found to be delinquent in its debt to the Commission"); 47 C.F.R. § 1.1164(e) ("Any pending or subsequently filed application submitted by a party will be dismissed if that party is determined to be delinquent in paying a standard regulatory fee or an installment payment.").

¹⁵ See 47 C.F.R. § 1.1914 ("If a debtor is financially unable to pay a debt in one lump sum, the Commission, in its sole discretion, may accept payment in regular installments.").